IN THE HIGH COURT OF NEW ZEALAND
INVERCARGILL REGISTRY

I TE KŌTI MATUA O AOTEAROA
WAIHŌPAI ROHE

CRI-2024-425-30
[2024] NZHC 2589

BETWEEN	KYLE JAMES CRAIG Appellant
AND	NEW ZEALAND POLICE Respondent

Hearing: 9 September 2024

Appearances: Appellant in person
S N McKenzie for Respondent

Judgment: 9 September 2024

JUDGMENT OF OSBORNE J

Introduction

[1] Kyle Craig (36 years of age) was convicted, upon his guilty pleas, on three charges of breaching a protection order (PO),[1] one of procuring cannabis[2] and one of failing to assist with a computer search.[3] Mr Craig was sentenced on the PO breaches to 16 months' imprisonment by Judge Harvey.[4] On the remaining two charges he was sentenced to one month's imprisonment (to be served concurrently). He appeals, in terms of his notice of appeal, both his convictions and his sentence. He requires an extension of time for his appeal.

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1 Family Violence Act 2018, ss 90(a)–(b), 9 and 112(1)(a)—maximum penalty three years' imprisonment.
2 Misuse of Drugs Act 1975, ss 7(1)(a) and (2)—maximum penalty three months' imprisonment.
3 Search and Surveillance Act 2012, s 178—maximum penalty three months' imprisonment.
4 *Police v Craig* [2024] NZDC 1030.

The offending

The protection order

[2] On 10 February 2022, a temporary protection order under the Family Violence Act 2018 was made, and was served on Mr Craig the next day. The first victim in this matter ("X") was the applicant for the order. The second victim Y, (X's daughter), was also protected by the order.[5] X and Mr Craig have been separated for over two years. X has two children living with her. (A final protection order was ultimately made on 17 June 2024).

PO Breach 1

[3] On 13 September 2023, Mr Craig posted court documents pertaining to the order on social media, tagging family and associates of X in the post.[6] X received multiple messages regarding the post.

PO Breach 2

[4] On 21 October 2023, X was alerted to another post made by Mr Craig that targeted Y. The post tagged Y's biological father and made distressing claims as to her parentage and family relationships.

PO Breach 3

[5] On 23 October 2023, Mr Craig attempted to contact Y three times, by messaging and calling her. A part of Mr Craig's message reads: "…the only gesture I can offer is risking prison (if youse call the cops coz of this) to tell you this and ask how are you?".

The other offences

[6] On 27 October 2023, police located Mr Craig at an Invercargill address with two grams of cannabis in his possession. While in custody, he refused to give particulars to unlock his device when requested.

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5 Family Violence Act, ss 8, 86 and 87.

6 Tagging on Facebook shows the tagged person's friends and family the content as well.

Mr Craig's guilty pleas

[7] Mr Craig was charged with five offences and, represented by counsel, pleaded guilty to all.

Principles on appeal

[8] Section 232(5) of the Criminal Procedure Act 2011 allows an appeal against conviction to be brought following guilty pleas. The Court of Appeal's statement in *R v Merrilees* is pertinent:[7]

> It is often the case that an offender pleads guilty reluctantly, but nevertheless does so, for various reasons. They may include the securing of advantages through withdrawal of other counts in an indictment, discounts on sentencing, or because a defence is seen to be futile. Later regret over the entering of a guilty plea is not the test as to whether that plea can be impugned. If a plea of guilty is made freely, after careful and proper advice from experienced counsel, where an offender knows what he or she is doing and of the likely consequences, and of the legal significance of the facts alleged by the Crown, later retraction will only be permitted in very rare circumstances.

[9] Appellants must prove a miscarriage of justice will result if the conviction is not overturned. Such appeals have been restricted to four categories:[8]

(a) where an appellant did not appreciate the nature of, or did not intend to plead guilty to, the charge;

(b) where, on the admitted facts, an appellant could not in law have been convicted of the offence charged;

(c) where it can be shown that the plea was induced by a ruling which embodied a wrong decision on a question of law; and

(d) where counsel errs in the advice given as to the non-availability of certain defences or potential outcomes.

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7 *R v Merrilees* [2009] NZCA 59 at [35].

8 *R v Le Page* [2005] 2 NZLR 845 (CA) at [17]–[19]; *Richmond v R* [2016] NZCA 41 at [17]–[18].

[10] An appeal proceeds by way of rehearing and this Court is required to form a view of the facts.[9] If this Court reaches a different view on the evidence and finds error, the appeal must be allowed.[10] The onus is on the appellant to show that an error occurred.

[11] Appeals against sentence are allowed as of right by s 244 Criminal Procedure Act and must be determined in accordance with s 250. An appeal against sentence will be successful if this Court is satisfied there has been an error in the imposition of the sentence and that a different sentence should be imposed.[11] A court will not intervene if the ultimate sentence imposed is within the available range and is one that can properly be justified on the application of relevant sentencing principles.[12] When assessing whether the sentence being appealed is "manifestly excessive" the focus must be on whether the sentence actually imposed is within range, rather than the process by which that sentence was reached, or its constituent elements.[13]

District Court decision

[12] The summary of facts on which Mr Craig pleaded guilty referred incorrectly to a "final protection order" made on 1 July 2023.

[13] The Judge, in sentencing Mr Craig, emphasised the "dreadful damage" inflicted on the victims by Mr Craig's actions.[14] The Judge quoted from the victim impact statements in which X referred to her psychological harm and explained she had "a lot of anxiety" and a diminished social circle by virtue of Mr Craig's online conduct. Y felt shame and embarrassment when Mr Craig spread false information about her online. She described his harassment as "never-ending".

[14] The Judge reviewed Mr Craig's record of offending. He noted a previous sentence of imprisonment (in January 2023) for seven PO breaches and two further PO breaches committed in May 2023. The Judge could also have referred to five

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9 *Sena v Police* [2019] NZSC 55, [2019] 1 NZLR 575 at [26]–[32].
10 At [38].
11 Criminal Procedure Act 2011, s 250(2) and (3).
12 *Tutakangahau v R* [2014] NZCA 279, [2014] 3 NZLR 482 at [36]; *Ripia v R* [2011] NZCA 101 at [15].
13 *Islam v R* [2020] NZCA 140 at [32]; and *Bowring v Police* [2021] NZCA 325 at [12].
14 *Police v Craig*, above n 4, at [7].

domestic violence offences over the same period for family violence offending. The Judge identified that Mr Craig's offending was "simply ongoing".[15] While acknowledging that Mr Craig suffers from autism, the Judge found that a sentence of imprisonment was again necessary.

[15] The Judge adopted a starting point of 18 months' imprisonment, uplifted by six months for Mr Craig's prior convictions. He observed he could alternatively, by taking all the factors into account, have selected a starting point of two years. He then gave Mr Craig credit for his guilty plea and his being affected by autism, arriving at a sentence (implicitly a total credit of eight months or 33 per cent) of 16 months' imprisonment.

Submissions

Appellant's submissions

[16] Mr Craig's issue with his convictions relates only to the three PO breaches. He notes the Judge's reference to the final protection order (1 July 2023), as recorded in the summary of facts, saying "it does not exist".

[17] Mr Craig also appeals against his sentence on the PO breaches. He appeals the sentence of imprisonment, asking what is the "point" of it, noting staffing shortages and overpopulation, as well as his autism. Finally, citing the New Zealand Bill of Rights Act 1990, Mr Craig claims the uplift imposed by the Judge was "contrary to the principle of double jeopardy". Mr Craig has focussed his oral submissions this morning on the first issue, the entry of convictions in relation to his three PO breaches.

Analysis

Extension of time

[18] The appellant is self-represented. The Crown accepts there is no prejudice in granting an extension of time. I find it just to grant leave to appeal out of time.

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15 *Police v Craig*, above n 4, at [10].

Conviction

[19] The respondent's written submissions filed by Mr Brownlie appropriately addressed this matter. The temporary protection order remained in force at the time of Mr Craig's September and October 2023 offending. The error in the summary of facts referring to a final order dated 1 July 2023 is immaterial. Mr Craig was, as a matter of law and of fact, guilty of the offences to which he pleaded guilty.

[20] In his oral submissions this morning, Mr Craig has emphasised to me his view that he has grounds to challenge the basis upon which the temporary protection order was made in the Family Court by reason of what he submits were irregularities in the documents filed in support of the application in that Court. I have explained to Mr Craig in the course of his submissions that this Court is obliged to treat as regular a vested order of the Family Court absent that order being affected by an appeal brought in relation to the Family Court orders. This is not the context for this Court to review alleged errors or irregularities in the application made to the Family Court.

Sentence

[21] I deal with this matter although Mr Craig has not addressed this in detail in his oral submissions to me. Protection order offending varies in circumstance — starting points are difficult to assess. The maximum penalty for a breach is three years' imprisonment. In light of the several cases I have reviewed,[16] the repeated targeting of two victims, and the relationship of this offending to Mr Craig's past offending,[17] I consider the two years' starting point was within range, albeit at the top of the range.

[22] The uplift imposed does not constitute double jeopardy — the relevance of previous convictions in setting starting points was identified by the Court of Appeal in the case to which Ms McKenzie referred, *Orchard v R*:[18]

> [39] Previous convictions are relevant as an indicator of character and culpability, all because they show the need for a greater deterrent response, or as an indicator of risk of re-offending. Uplifts for previous convictions should be considered responses to a defendant's criminal history.

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16 *Jackson v Police* [2019] NZHC 281; *Turner v Police* [2017] NZHC 1113; *Carlyon v Police* [2017] NZHC 2526; *Wratt v Police* [2018] NZHC 2477.

17 Family Violence Act, s 112(3).

18 *Orchard v R* [2019] NZCA 529, [2020] 2 NZLR 37 at [39].

[23] Although the Judge did not give discrete percentage figures, it appears a full 25% discount was allowed for the guilty plea, as well as an eight per cent credit for Mr Craig's autism. Higher discounts can and have been given for mental illness factors.[19] The level of appropriate discounts must depend on the information before the Court. Here, as the Judge found, some account could be taken of Mr Craig's autism as a mitigating factor.[20] But it remained clear the three sets of offending were concerted and deliberate attempts to cause harm to X and Y, and with full appreciation of the consequences, following a well-established pattern of Mr Craig ignoring Court orders. The Judge's allowance for Mr Craig's autism was, in my view, appropriate.

[24] Ms McKenzie's submissions accurately summarised the nature of the discretion to commute a sentence of imprisonment to home detention. Mr Craig has emphasised today he no longer pursues submissions in that regard. The Judge considered submissions from Mr Craig's counsel on that issue in any event. The Judge correctly referred to the probation officer's recommendation of imprisonment, against the background of Mr Craig's sentence of imprisonment for similar offending previously and the continued nature of his offending. The need for the protection of X and Y, when the existence of protection orders had failed to constrain Mr Craig, had to be at the forefront — leading the Judge correctly to observe: "I am not prepared to risk home detention because I do not want further breaches of this order. The victims have suffered enough."[21] These factors fully justified the Judge's decision to impose a term of imprisonment.

Outcome

[25] The time in which to appeal is extended.

[26] The appeal is dismissed.

Osborne J

Solicitors:
Crown Solicitor, Invercargill

Copy to : K J Craig (self-represented)

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19 *L v R* [2019] NZCA 676 at [48]–[49].
20 *Police v Craig*, above n 4, at [11].
21 At [12].

In The Supreme Court of New Zealand
I te Kōti Mana Nui o Aotearoa

In the matter:

Under: The Family Violence Act 2018
The Disclosure Act 2008
The Criminal Procedure Act 2011
The Criminal Procedure Rules 2012
The Bill of Rights Act 1990
The Senior Courts Act 2016

Between: Kyle James Craig
of Invercargill
c/o Po Box 827, Invercargill

Appellant

AND

New Zealand Police
c/o 117 Don Street
Invercargill

Respondent

Application For Leave to bring Appeal of a High Court Judgment Directly to The Supreme Court

dated: 3rd October 2024

Kyle James Craig
of Invercargill
c/o Po Box 827, Invercargill

To The Registrar of The Supreme Court

Following the Matter: CRI-2024-425-000030
[2024] NZHC 2589

1. I, Kyle James Craig of Invercargill, The Appellant in the proceeding identified above, give notice that I here apply for leave to appeal directly to The Supreme Court against, in part, the 9 September High Court Judgment deduced.

2. It is my application and submission in appeal that The Supreme Court is the required Court to set the regulatory standard of proof and conduct in regard to the filing and question of the matters of fact and law that I bring for review.

The Grounds of my Appeal to this Second Appeal Court

3. The grounds I bring in appeal encompass

3,a. elements of offence and the (requirement of) production of orders to evidence

3,b. the initial integrity of Police Summary of Facts and the miscarriage of justice that has or is likely to occur (if not standardized or gauged here by The Supreme Court) when viewed in contrast to the legal principles prescribed to the major bearing that Police Summary of fact documents filed in Court have on starting points imposed by Judges and Sentences delivered

3,c. the examination of retroactive penalty and double jeopardy conferred to New Zealand Citizens under The Bill of Rights Act[1] namely the ommiting of a particular order in breach at sentencing in this case and secondly, the Court of Appeal standard that I bring

1. The New Zealand Bill of Rights Act 1990 Section 26 Retroactive penalties and double jeopardy

for either review or confirmation of, by The Supreme Court, in regard to the imposition or not, of uplift for previous offences

3, d. an assessment of the elemental standard of proof required in claiming or proving psychological abuse under The Family Violence Act and what level of earned justified merit or scale of claim, provocation or defence should be set

3, d (i). in this case in particular when compared to what I bring for judicial justification of imprisonment when risk of such is used by a would be accuser following certain drivers put in place to provoke a response that an accuser could claim as psychological abuse to comit psychological abuse on a deemed offender by way of the discernable weaponization of a protection order to wage a Crown sponsored assault on a person via The Courts by way of slavery and imprisonment, where I asked: what is the point of prison and what is it meant to achieve when Prison is the (known) mode of sentence deliberated through a (knowingly) victim centric justice system

3, d (ii). and what tally of the underlying processes to apprehend victim abuse of the judiciary and/or counstalbry would The Supreme Court propose and/or in reccommendation to Police.

4. The grounds of my appeal, I argue, require review, regulation and standardization of best practice to be set in precedence

by The Supreme Court. The ultimate upholding or quashing of conviction (and so thus, sentence) which was dismissed[2] by the first appeal court is held, in my submission, to the discretion of the wise view formed by This Court.

The High Court Judgment in question

5. For the purposes of this appeal, in application, moving foward, it must be duly noted that the Protection Order breached, convicted and sentenced upon in The District Court,[3] and here reffered to in Paragraph 1 of The High Court Judgment in question,[4] Was done so by The District Court upon reliance of The Summary of Facts[5] filed by Polise - The Respondent in this matter, and that the Protection Order differs in both it's date and form and thus existence than the Order cited in Paragraph 2 of The High Court Judgment in question.[6]

6. At paragraph 10,[7] I appeal the view of the facts and error Was shown by me, that The High Court too could have reached this view, as noted in Paragraph 12[8] but instead, held at 19[9] to allow the convicted and sentenced upon error, citing it as immaterial and disallowing the appeal to issue in my favour. I proffer that The High Court erred in this analysis, failing to uphold that We must establish What The Sentencing Judge is saying is true and correct.

7. It is in light of that hassle above at paragraph 6[10] that at paragraph 20 of The High Court Judgment in question that I appeal to The Supreme Court that, absent a clearly coded and defined crime, an Order of any sort must be proved by it's presentation into evidence

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2. CRAIG v NZ POLICE [2024] NZHC 2589 n at [26]
3. POLICE v CRAIG [2024] NZDC 1030
4. n at [1]
5. POLICE Summary of facts filed in CRI-2023-025-001517
6. above n at [2]
7. above n at [7]
8. above n at [12]
9. above n at [19]
10. appellant Submission this leave application at [6]

8. At paragraph 19[11] of The High Court Judgment I appeal The High Courts allowence and thus endorsement of falsehoods held in documents[12] filed to The Court by The Respondent.

9. At paragraph 22[13] of The 9 September Judgment I bring for review in appeal uplifts and the imposition of double jeoprady being: no one who has been finally convicted of an offence shall be tried or punished for it again.[14] I appeal the view of *Orchard v R*[15] adopted in lieu of The Bill of Rights I cited and which The Respondent is bound by. The Supreme Court is, in my appeal, the correct Court to qualify this or not.

Why The Supreme Court should Hear and Determine This Appeal

10. Section 75 of The Senior Courts Act 2016 (The Act) states that The Supreme Court must not give leave to appeal directly to it against a decision made in a proceeding in a New Zealand Court other than The Court of Appeal unless this appeal application can satisfy The Supreme Court that there are exceptional circumstances that, alongside accordance with Section 74 of The Act, justify bringing this proposed appeal to This Court, where in which, Section 79 b of The Act decrees that, even if this case has not been heard in The Court of Appeal, The Supreme Court will here have the power the Court of Appeal would have if hearing the appeal.

11. Section 73.1 of The Senior Courts Act 2016 states that Appeals to The Supreme Court may be heard Only With The Courts Leave, in which, this is my formal application.

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11. above n at [19]
12. POLICE Summary of facts filed in CRI-2023-025-001517
13. above n at [22]
14. The New Zealand Bill of Rights Act 1990 at Section 26.2
15. Orchard v R [2019] N2CA 529 [2020] 2 NZLR 37 at [39]

12. In concordance with Section 74, 2, a. and b. of The Act I depose that this appeal houses the importance of upholding The Courts business and the integrity of documents filed in a Court as well as a general standard that must be decreed by This Court in regard to the production of orders in breach.

12, a. Sir Robert Peel of England stated and I quote: The Public are The Police and The Police Are The Public. Offender or not, short comings of - or mistruths by The Police form the basis of idle resentment and gossip, dimming public support or faith in protective institutions, however, in a breadth of new light, in view of S74,2,a The Supreme Court here can precedently refresh the validity of the oath and/or declaration of any Summary of Accusation or filed document in a court, especially in audit of the correct charge for the correct balance of the alledged act

12, b. I claim it is in accordance with 74,2,a. and b. that Judges and The Public have a Supreme Court tarrif when balancing the diagnostic uplift tools between the factors of discretion and Court of Appeal case law versus individual indicators and the promise of S 26,2 [16] that I bring for examination

13. Section 74,5 of The Act states, in my favour of this appeal being heard and determined by The Supreme Court, that Subsection 2 - deeming that necessity in the interest of

16. New Zealand Bill of Rights Act 1990 Section 26,2 - No one who has been finally convicted of an offence shall be punished for it again

justice - does not limit the generality of subsection 2, a. I have apprehended an importance, but my lack of public consultation and collection of testimony must not be silenced by this Court or go unheeded.

13, a. a S74, 2, b. substancial miscarriage of justice may oneday occur if The Respondent were to bluff 5A[17] Invercargill cases etc

14. The Section 74, 2, a. defence that this appeal is isolated to involve just me so must be dismissed, must be met with the Section 74, 2, b. plea that, unless this appeal is heard, I remain convicted of a non existant Final Protection Order that 'X' claims to be protected by.

14, a. For a Court of Law to say Final - instead of temporary, or to say 1 July 2023 - instead of 10 Feburary 2022 is a slur or immaterial slight error, but no

14, b. In this case, The Respondent referred specifically to a complete falsehood[17] - a particular 1 July 2023 Protection Order which was Final

14, c. and then failed to produce ANY copy of any protection order to evidence or disclosure[18]

14, d. but however, submitted statements of claim[19] of complaint of which would not have constituted any crime if no order was in force

14, e. Then both The Respondent[20] and The High Court[21] admitted the fabricated Order upon which I was imprisoned

14, f. but The High Court upheld and endorsed the fallacy

14, g. Despite The Respondent admitting that

17. Respondent Submissions in CRI-2024-425-000030 30 August 2024 at [22]
18. Disclosure Bundle CRI-2023-025-001517
19. Disclosure Bundle CRI-2023-025-001517 Statement of Della Jackie Webb, Statement of Madison Isabel Macclure
20. Respondent Submissions in CRI-2024-425-000030 30 August 2024 at [22]
21. [2024] NZHC 1751 at [12] and at [19]

Sentencing is 'intensely fact specific'[22]

however, in support of the S74,2,b. criterion Section 76,3 of The Act can in S76,3,b. allow the parties to this application for leave to appeal to The Supreme Court a 76,2,a 76,3,b oral hearing where in which I apply and assure S74,2,b. that in conjunction with Section 329 of The Criminal Procedure Act 2011 I submit, in support of a oral hearing that this application cant, unless it succedes soley under 76,3,a. of The Act, be fairly determined without examination under

14,h. Criminal Procedure Act 2011 section[23] 2, a, iv: the complexity of the issue and S329,2,a,v: evidence that should be called under Section 335,2,e namely: the Commissioner to produce what will be a non-existant order upon which I was convicted of etc

14,i. It is with all due respect citing section 329 of the Criminal Procedure Act 329,2,b that I imply this appeal has realistic prospect of success and should clearly be allowed.

The interest of justice and the necessity in prevention of a miscarriage is a Supreme Court visitation of 5A of The Criminal Procedure Rules 2012.

The Judgment I Seek from The Supreme Court

15. I seek a regulatory standard of proof to produce to evidence the Order in claim where an Order is central to proceedings

16. I seek the validity and the integrity of a Summary of

23. Section 329 of The Criminal Procedure Act 2011

Facts Prossecution Bundle document be upheld by it's careful and factual consideration, given it's weight in deliberation, by making it a deposition signed filing in or under a manner The Supreme Court deems fit

17. I seek an examination by The Supreme Court of the principles and purposes of uplifts in sentencing.

18. I seek an analysis by This Court of the risk posed and Ways in Which the frivilous vexatious Weaponization of Protection Orders can go one sidedly unharnessed to the detriment of an (even temporary) respondent

18,a. this must encompass victims views vs victims who seek imprisonment of others in a way that undermines that being the Judges decision only

19. I seek a re-examination of The High Court Judgment and the production or the correcting of What and Which order I was convicted of breaching

19,a. A review of conviction thus sentence is at the discression of this Court only. under retroactive penalty

20. I again must ask what the point of prison is. Nothing helps, it's expensive, it's psychological abuse and I'm not learning my lesson. Im learning systematic resentment and I miss my daughters Isla and Kindred. Whom have come to harm upon The Family Courts watch Whilst the law protects the perpetrators.

Legally Aided

21. The Appellant is not legally aided

Signed and dated at Invercargill this 3rd day of October 2024
by the here in said: Kyle James Craig
of Invercargill

In The Supreme Court of New Zealand

I te Kōti Mana Nui o Aotearoa

In the Matter: SC 109/2024

Under: The Family Violence Act 2018
The Disclosure Act 2008
The Criminal Procedure Act 2011
The Criminal Procedure Rules 2012
The Bill of Rights Act 1990
The Senior Courts Act 2016

Between: Kyle James Craig
of Invercargill
c/o Po Box 827, Invercargill
Appellant

AND

New Zealand Police
c/o 117 Don Street
Invercargill
Respondent

Appellant Written Submissions in Support of Leave Application to Appeal

dated: 23 October 2024

Kyle James Craig
of Invercargill
c/o Po Box 827, Invercargill

May it meet The Court

1. Section 75 of The Senior Courts Act 2016 states that to directly Appeal to The Supreme Court against a decision imposed in a proceeding in a New Zealand Court other than the Court of Appeal, The Supreme Court must be satisfied that it is necessary in the interest of justice and that there are exceptional circumstances that justify the proposed appeal being directly heard and determined by The Supreme Court. These here are my written submissions in support of I, the Appellant being granted such leave to be heard.

2. I, the Appellant bring appeal of a High Court decision[1] to dismiss the first appeal of conviction and thus sentence where the High Court sitting was presided by a Senior Court of Appeal Justice[2] and the case law relied upon by The Respondent in those submissions included 2 High Court citations[3] and 9 Court of Appeal case citations[4], only - forming the inclination of my right mind to apply that The Supreme Court is the correct court to bring my issues for determination and standardization. The general powers on an appeal in a proceeding being heard in The Supreme Court are outlined in Section 79 (1) (b) of The Senior Courts Act and appropriately encompass an examination of this case where, although appeal is brought directly from the High Court, The Supreme Court will here have the powers that the Court of Appeal would have if hearing this appeal.

2a, Where upon the unsuccess of Leave being granted, in any event, I do humbly apply The Supreme Courts excercise of Section 80 of The Senior Courts Act to the Court of Appeal - to save us all more reading & writing, as, under the onus of no suprises, is my intent.

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1. [2024] NZHC 2589
2. Judgment of Osborne JJ [2024] NZHC 2589
3. Grant v R [2021] NZHC 1244, at 27, R v Meno [2022] NZHC 1062.
4. R v Merrilees [2009] NZCA, R v Le Page [2005] 2 NZLR 845 CA, Richmond v R [2016] NZCA 41, Ripia v R [2011] NZCA 101, Orchard v R [2019] NZCA 529, Fairbrother v R [2013] NZCA 340, R v Vhavha [2009] NZCA 538, R v [illegible] CA 209/06

3. Section 71 (a) of The Senior Courts Act 2016 allows that The Supreme Court may hear and determine appeals authorised by Part 6 of the Criminal Procedure Act 2011 namely :

3a, Section 238 (b) of the Criminal Procedure Act, in this case, allows the Supreme Court to hear and determine an appeal of a High Court decision if in line with 240 (2) this second appeal Court is satisfied in any case that a miscarriage of justice has occured for any reason.

3b, Section 232 (4) defines miscarriage of justice as any error, irregularity or occurrance that has created or resulted in an affect or nullity.

3 b,i. This is the case here.

3c, I submit that The Supreme Court herefore is authourised and must grant Leave to Appeal having met the Sections 238 (b) 240 (2) and the Section 232 (2) (a) (b) and (c) test in which the Summary of Facts filed by The Invercargill Police (Respondent) housed an admitted [5] error and irregularity causing the occurance which affected The Invercargill District Court to be mislead and Sentence me, based both on it's falsehood and foilure to produce to evidence X's (Protection) Order where I was infact sentenced to imprisonment upon Police claims X was protected by an

5. CRI-2024-425-000030 Respondents Appeal Submissions dated 30 August 2024 at [22]

A, B or even a C's non-existant order resulting, unfairly to all involved, a Section 232 (4) (b) nullity in which The High Court not only upheld but in fact endorsed,[6] even following The Respondents knowledge that Sentencings by a Court are intensely fact specific.[7]

3 d, In appeals against decisions where a conviction has been entered, Section 232 (4) defines trial as inclusive of an appellant whom plead guilty.

4. The Senior Courts Act Section 71 authourisation by Part 6 of The Criminal Procedure Act to grant leave to hear and determine this appeal if further commenceable as

4 a, I, The Appellant here meet Section 239 (1) of Part 6 by filing this Application for Leave to Appeal

4 b, Section 241 (2) grants The Supreme Court the powers required to hear and determine this appeal

4 c, and jurisdiction is further conferred to The Supreme Court under Subpart 4 of Part 6 allowing the excercise of Sections 254 (b) 255 (1) and 256

Appellant to Appear in Person

5. Section 329 (1) of The Criminal Procedure Act states that

6. [2024] NZHC 2599 at [19]
7. CRI-2024-425-000030 Respondents Appeal Submissions dated 30 August 2024 at [44]

Applications for Leave to Appeal must be dealt with by way of oral submissions. Particular in this case, this stance is further sustained by Section 329 (2)(a):

5. a (i) I, The Appellant am not assisted by Counsel

5, b (iv) The nature and gravity of the issues to be determined imply a serve and return dialogue may be required, coupled with the fact my appeal is applied directly to The Supreme Court from The High Court and my intent upon unsuccessive leave is revealed to seek a Court of Appeal hearing by way of right of notice

5. c (v) and Wether evidence should be called. Namely: The Police Commissioners onus to produce the non-existant Protection Order or to account for the details of the intensely specific 1 July 2023 Final order for fair and just examination.

and I as a partie with said interest have approved self presented behaviour in Court. I am a verbal autistic and I have been working and have improved my concise vocal communication and I seek leave to be present at this Application for Leave to Appeal to The Supreme Court oral hearing in line with Section 326 (2) et.al.

5, d my current circumstance - on unrelated matters, that unfortunately again house mistruths and exxagerations on Invercargill Police filed Opposition to bail forms, Summary of facts and intensely mislaid holding charges of which have been at an ignorance of negotiation on

part of PPS for coming up over 11 weeks, I am currently remanded in custody at Invercargill Prison, next to appear in the Invercargill District Court on November 4. I have spent 12 weeks in remand for what should be my 1st count of assault charge of this kind holding a 2yr maximum. I have not applied for bail, however, in interest of justice, I will apply for bail on November 4.

5, e By way of powers excercisable under Section 332 (1) (b) of The Criminal Procedure Act 2011 a Supreme Court Judge can authorise a partie to proceedings to be present

5, F If my circumstance has not improved and given that The Respondent in this case could wield upon me a legal disadvantage by way of further oppression in another case of where The Respondent is the Prossecuting Party

5, f, i. Can I please here by make application to The Supreme Court Judge for bail under Section 332 (1) (d) on any condion he or she deem fit or have this Application for bail excercised by The Court under Section 332 (2)

6. Because the procedural requirements indicating this Application for Leave to Appeal as-well as the Appeals prospect of success is the proven and defined miscarriage of justice test and the matter of public interest threshold where The Supreme Court is the correct Court to build the case law required to uphold the integrity of both justice and Court documents filed by The Respondent housing the Seal of The New Zealand Police signet. If their mistakes remain unchecked by these proceedings, then unaddressed, they can undermine the integrity of legal systems and legal errors jeopradize proceedings.

7. It is duly my proposition that the Section 74 Criterion to Appeal to The Supreme Court is met in this case.

8. Jury's are made up of strangers on the street and it is called open justice because The Law is the public thing and here, The Supreme Court are the Public and the Public are The Supreme Court.

9. If we are but mearly the children and Parliment are our Parents, with The Crown our esteemed and dear Grandparents then - because we dont 'see' them, The Police are like our older brother. So when excessive persecutions, especially of claims on disintegrity and the rule of law and custom breed oppression within the ranks of Police that blur the lines of discipline vs punnishment and Opposition to bail form and Summary of facts become marginalising weapons or manipulative means - Then it is The Supreme Court of New Zealand that I imply a citizens apprehension safe haven for misconduct regulation - especially by those seemingly in charge.

9a. Section 74 (2) (a) of The Senior Courts Act allows cases such as this in appeal for precedence and standardization case law and guiding principles to be set here by The Supreme Court in the same way our legislative writers in Parliment need to hear from legal experts, academics, lawyers, Courts, the public and people with real lived experience.

10. This case I bring, given leave is granted to be heard, allows The Supreme Court to impose authoritatively a reshape of guidance on instruction policy and regulations upon Police in the interest of general and public importance and justification.

Conclusion

11. Substantial is a word defined to include having substance, validity, essential or of a large ammount. and despite people maybe having not complained, I know and have here in at least one case (pending future accounts ill show you) the Invercargill Police have commonly occurred in such manners and it needs to stop.

11a, making opposition to bail forms and summary of fact forms deposed is in the public interest and will prevent a substancial miscarriage of justice from occurring.

12. I seek leave to appear in person (or by AVL) for the determination of Leave to Appeal hearing and under Section 329 (3) I dont agree to a hearing just on the papers due to the gravity of issues to be determined and I seek a Section 332 (1)(d) or 332 (2) discretion.

13. These written submissions are in support of Leave to Appeal directly to The Supreme Court being granted.

Signed and dated at Invercargill
this 23rd day of October 2024
By the said Kyle James Craig
of Invercargill

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 109/2024
[2024] NZSC 165

BETWEEN	KYLE JAMES CRAIG Applicant
AND	NEW ZEALAND POLICE Respondent

Court:	Glazebrook, Ellen France and Miller JJ
Counsel:	Applicant in person M H Cooke for Respondent
Judgment:	5 December 2024

JUDGMENT OF THE COURT

A The interlocutory applications and application for bail are dismissed.

B The application for leave to appeal is dismissed.

REASONS

[1] Mr Craig has sought leave to appeal direct from a judgment of the High Court dismissing his appeal against conviction and sentence.[1]

[2] Mr Craig is currently serving a 16-month term of imprisonment imposed by the District Court on 19 January 2024 on three charges related to the breach of a protection order and two charges related to the possession of cannabis and refusal to give particulars to enable the unlocking of his mobile phone.[2] He pleaded guilty to those charges.

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1 *Craig v New Zealand Police* [2024] NZHC 2589 (Osborne J).
2 *New Zealand Police v Craig* [2024] NZDC 1030 (Judge Harvey).

[3] There are no exceptional circumstances warranting a second appeal from the High Court to this Court.[3] The appeal raises no questions of general or public importance.[4] Nor is there anything to suggest the High Court was wrong.

[4] We dismiss Mr Craig's applications to file submissions in reply and be present at an oral leave hearing. We also dismiss Mr Craig's application for bail.[5]

[5] The application for leave to appeal is dismissed.

Solicitors:
Te Tari Ture o te Karauna | Crown Law Office, Wellington for Respondent

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3 Senior Courts Act 2016, s 75.
4 Section 74(2)(a).
5 Bail Act 2000, ss 14(1A) and 54.